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P L A N  
O F  
A N E W A C T,  
RELATING TO THE  
S T A T U T E - W O R K  
I N

S C O T L A N D. Statute-Wor<sup>m</sup>  
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By a COUNTRY-GENTLEMAN.

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P L A N  
O F  
A N E W A C T  
RELATING TO

The STATUTE-WORK in Scotland.

THOUGH the laws relating to the highways in this part of the kingdom are of a pretty old standing, and indeed too numerous; yet the effect of them had been so little felt, and so little benefit had arisen from them to the country, owing, in a great measure, to their never having been properly attended to and executed, that many people doubted extremely of the propriety of introducing turnpike-tolls into this country at all, or at least not till our standing laws had been fully carried into execution; not doubting but the tolls, if once established, would be levied, but fearing that the application of them would not be properly attended to; in which case, in place of being any benefit, they must have proved a great grievance to the country: and I own I was strongly of

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that opinion myself. But it is with pleasure I can say I was most agreeably disappointed: for the introduction of turnpikes seemed to awaken the gentlemen from the lethargy in which they had long lain, and raised such a spirit of making and repairing roads, as has proved most beneficial; and of which, however high some of the tolls, from necessity, may be, I believe every person, from the highest to the lowest, who pays them, is now fully sensible, and does it with pleasure, finding his interest in it. And what must add greatly to this is, that it never has been alledged that there has been the smallest embezzlement or intentional misapplication of the tolls; though it must be acknowledged, that, from our want of experience in such work, and of proper hands, some of the first turnpike-roads were made at a much higher expence, and not so well executed, as the later ones have been: but this was an unavoidable inconvenience, arising solely from the nature of things.

The introduction of these tolls has been attended by another great benefit, that it inspired a like spirit of making and repairing the other roads in general where no tolls were established, and for which there was no other fund but the statute-work; and by means of that, a good deal has been done in some parts of the country;

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try; especially where the principal great roads were made and supported by the additional tolls, or where materials were easily got, and the carriages were few and light: but where they were numerous and heavy, the soil naturally deep, and materials scarce and distant, little progress could be made in that way; especially considering the unwillingness and inexpertness of the people who are liable in statute-work, and even their want of proper tools and instruments, had they been ever so willing and expert. Besides that many doubts have arisen concerning the interpretation of several clauses in the former acts of parliament relating to the highways: so that it may truly be said, that they neither have been, nor upon their present footing can be, made effectual, for the good purposes for which they were intended.

These considerations led the gentlemen of East-Lothian, who were then passing a turnpike-act, to add several new regulations with respect to the statute-work in that county; which the experience of four years has shown to have been very judicious and effectual; and, I am informed, is now much more agreeable to all liable in statute-work, than the harassing and ineffectual methods formerly used: and several other counties have since adopted the same regulations.

[ 6 ]

But however well adapted these new regulations may be to the state of things in that county, it cannot be supposed they would answer equally well over the kingdom in general, as the Honourable and Learned Person who is said to have drawn them, had nothing farther in view than what might best suit that particular county; yet I will venture to affirm, that whoever will attentively consider them, will find them an excellent ground-work for framing a general law; the necessity of which, I believe, is acknowledged by every person who turns his thoughts that way.

This, no doubt, induced Mr Solicitor Dundas first to mention the matter to a meeting of the gentlemen of Mid-Lothian, and afterwards, at their desire, to intreat all the sheriffs in Scotland to lay it before their respective counties, that the general sense of the nation might be known.

Had that Honourable Gentleman gone a step farther, and had made a plan for a new act, and transmitted it to the different counties for their opinions, I am persuaded it would have proved a much shorter and a more effectual and acceptable method: for, if I am rightly informed, most of the counties declined coming to any resolutions on the subject; and where they did enter upon it, the sentiments  
were

were very various and indecisive, having nothing to work upon.

This has encouraged me to offer to the public the following hints for a new law, which may at least lead others of more abilities and experience to make amendments and corrections. And, for perspicuity's sake, I shall throw them into the form of heads for a new law, arranged in what appears to me to be the most natural order, subjoining such explanatory notes as may seem necessary.

To prevent the necessity of repetitions, I will premise a few general principles, which I think should govern the whole spirit of this law, and which I have endeavoured to keep always in my eye.

1. The great benefit that good roads are to every country, especially to a commercial one; which needs no illustration.
2. That these roads should be made by, and at the expence of, the persons who are to reap benefit from them, and in proportion to the benefit they are to reap by them.
3. That it should be done in the manner the least oppressive and burdensome to the public, and in the most equal and effectual way; and that the persons who perform the work should

should be the most immediate benefitors by it.

4. That for these ends, the execution, and every other power, should be vested in, and committed to the persons whose interest it is to execute the law in the most effectual and gentle manner; and who must either directly or ultimately be the sufferers by a contrary conduct: and therefore they can never be presumed to make any wrong use of the trust and powers vested in them; which indeed, from the nature of the case, must be large and discretionary; as, without that, all general rules would be productive of many inconveniences.

**Head 1.**  
Persons li-  
able in sta-  
tute-work.

That all heritors and liferenters in the natural possession of their own lands, and all tenants renting lands, shall furnish to the highways, for six days yearly, two carts, with two able horses, and one able servant, each, or wains in proportion, where the custom is to work by oxen, for each ploughgate of land they possess, and so in proportion, for two thirds, one half, and one quarter, of a ploughgate.

**Head 2.**  
Grafs-  
grounds.

That where the tenant is debarred from liberty of tillage, the heritor or settler shall be obliged to furnish the statute-work, or, at

at his option, to pay the converted value  
as hereafter mentioned.

That persons keeping more carts and horses, or wains and work-oxen, than in proportion to the land they possess, shall furnish yearly six days work of the whole of their carts and horses, or wains and work-oxen.

That persons keeping more draught-horses than necessary for their ploughs and carts, shall furnish yearly six days work, with a double cart, for each pair of such additional horses, or, in their option, pay the converted value as hereafter mentioned.

That householders or cottars (not being servants hired by the year, nor liable to furnish carts) shall work themselves on the high-roads for six days yearly, or, in their option, pay four pence for each day's work.

That the statute-work be performed at any time when the same shall be required by the overseers, (except during seed-time and harvest), upon four days warning being given by the overseers.

That no persons be compelled to furnish or perform statute-work at a greater distance

Head 3.  
Persons  
keeping  
more carts,  
&c.

Head 4.  
or more  
horses than  
requisite for  
their land.

Head 5.  
Household-  
ers and cot-  
tars.

Head 6.  
Seed-time  
and har-  
vest.

Head 7.  
Not more  
than three  
miles di-  
stant.

stance than three measured miles from their place of residence.

**Head 8.**  
Indigent persons.

That the heritors, &c. of the respective parishes may, at their discretion, exempt indigent persons, either from working or paying conversion ; especially such as have three or more children under fourteen years of age.

**Head 9.**  
Labouring men to work for hire.

That labouring men (not being servants hired by the year), though they have been exempted from, or have paid the composition, may yet be compelled to work on the high-roads six days yearly, on being paid the ordinary days wages in that part of the country.

*Note.*

In the East-Lothian act, the statutework now due by the present laws, is reduced to the one half, and only three days exigible in place of six ; but as the whole six days may in other parts of the country be found necessary, especially for some time, it seems best to leave that in the power of the heritors themselves to judge of, according to circumstances, and not to restrict them in that respect. The limiting the distance, and the exempting the indigent persons, no body will certainly find fault with. The obliging the labouring men to work for wages, can be no hardship, and is absolutely necessary in many

many parts of the country, where no other hands can be found.

That the application of the statute-work, Head 10.  
and of the money arising from conversions, Applica-  
tion of the  
statute-  
work.  
and of all other monies destined by this act for repairing the high-roads, shall be put under the sole direction and management of the heritors, &c. of the parish from which the same arise, to be applied in repairing the roads within that parish, and to no other purpose; with this exception, That when a majority of two thirds of the heritors, &c. at their stated or adjourned meetings, shall agree to apply any part of the statute-work of their parish in repairing any particular roads in a next-adjoining parish, and leading to or from their own, it shall be lawful for them to do so. And where any royal or other borough happens to be a parish within itself, the direction and management of the statute-work arising from said borough shall be in the magistrates thereof; they being always holden and obliged to apply at least one half thereof to roads leading to or from the said borough, and not within the liberties thereof.

At present the application of the statute-work is in the justices of peace and commissioners of supply; which in practice has been productive of many disputes

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and differences, as one part of the meeting has frequently complained, that the majority had appropriated the statute-work to distant parts, where the people who were to perform it could reap no benefit from it; which certainly was not without foundation. And therefore the parochial scheme, which was first laid down in East-Lothian, seems by much the most eligible, as being the most equitable and fair, and having the best chance of being executed with spirit and unanimity.

When there is a landward parish, the magistrate of the borough is to meet and vote with the heritors; but when there is none, the justices, &c. have been in use to call out the inhabitants to work on the great roads in other parishes. So this clause is more favourable to the royal and other boroughs.

Head 11.  
Heritors to  
meet, and  
make up  
Lists of  
plough-  
gates.

That the heritors and liferenters in every parish, who are at present, or shall at any time hereafter be, possessed of lands therein of one hundred pounds Scots valuation, in their own rights, or their wives, and the eldest sons of such persons, and the chief magistrate of every royal borough, and the bailie of every borough of regality or barony, shall meet, by themselves, or persons authorised by them, at their respective parish-churches,

on

on the first Tuesday of September 177  
years, with power of adjournment; and failing their meeting that day, upon any other Tuesday of that or the subsequent month, previous intimation, by order of any one heritor, being made by the reader from his desk on a Sunday, at least ten days before the meeting, with power of adjournment; and make up a list of the ploughgates of land, and subdivisions thereof, within that parish, and also of all other persons, horses, or cattle, liable in statute-work.

*Note.*

The autumn-months are the most proper for the first general meeting; as more gentlemen are at their country-seats at that season than in any other; and besides, by taking their measures so long before the season of working, the execution is much facilitated. But as when a meeting is limited to one single day, it is often let slip, through inattention, as I am informed happened in several parishes in East-Lothian, it is necessary to provide against that accident, by allowing other meetings to be called.

That a ploughgate is to be deemed so much land as may be reasonably laboured with four horses and two servants, according to the nature and soil of the particular farms, but not less than sixty acres;

*Head 11.  
What a  
ploughgate*

for ascertaining which the heritors, &c. may take such proof as they shall think proper; and declaring, that all muir-lands, or other grounds, which in their own nature are so unfit for tillage that no ploughs are, or have been in use to be, kept upon them, shall nevertheless be rated by ploughgates, in proportion to the number of horses requisite for each farm for carrying and leading feuel, hay, and other necessary purposes of such farm, whether the tenant or occupier reside on the farm or not, and reckoning four horses to a ploughgate; and shall be liable in statute-work accordingly, in manner before and herein after directed.

*Note.*

Though by the present law the whole tenants, possessors, &c. are liable in statute-labour; yet it was found necessary to ascertain and reduce that to some rule; because of many questions that arose upon it; and that in different parts of the country the tenants and possessors frequently keep more horses, servants, &c. upon their farms at one season of the year than at another, buying in and selling off as their work requires, and as their fodder will answer for their maintenance.

The method of proportioning the statute-work by ploughgates appears to have been the most ancient, and most commonly followed through all Scotland, at least

least in the cultivated parts, and may therefore be presumed to have been found by experience to be the most practicable; and no doubt the first idea of statute-work was, that the inhabitants of the land, with their whole servants and horses, should be employed in making the roads; and at that time the servants and cattle kept upon the uncultivated parts were probably so inconsiderable as not to be thought worth notice. Other methods have been proposed, particularly a tax by the valued rent; but this, it is thought, would be attended with many inconveniences, and in some cases would be inextricable. Those of this country who have had most experience in parliamentary affairs, have always considered it as a dangerous thing, to propose any new taxation or burden to be regulated by the valued rent, as it might lead to very disagreeable consequences, and would be a dangerous precedent in other cases. But besides, some very large estates, and most baronies, are valued *in cumulo*; and consequently, were the statute-work to be proportioned by that mode, a general division would be necessary to ascertain the valued rent of each particular farm; which would be a most intricate and laborious affair; and upon every alteration, by dividing and arranging farms differently from what they are at present, the same

same must be repeated. Nor is it easy to foresee how such particular valuations might interfere with, and affect, the qualifications of voters for members of parliament. Suppose a farm to lie partly in one parish and partly in another, how is the valuation of each part to be ascertained, without first dividing the real rent? how is old rent to be distinguished from improved rent, which was always considered as free from every burden or taxation whatever, which has been one of the great inducements and encouragements to our late improvements? besides many other inconveniences that would follow that method. It is true indeed, that in some parts of the kingdom, where the tenants pay the land-tax, it is collected among themselves by parishes, according to some old rule of their own; but upon examination it will be found, that bears no proportion to the real rent; and that many of the farms pay no cess at all, it having been formerly laid by the proprietors upon such farms as they at the time thought could best bear it, or perhaps according to the favour the master, or rather his factor, bore to the then possessors.

A considerable difficulty however still remains, in the ascertaining the plough-gates in muir-lands and sheep-pastures, as it would be great oppression to rate them.

them in the same way with arable lands. A farmer who possesses a farm in a cultivated part of the country, keeps horses in proportion, and wears the high-roads much, by the repair of his carriages, carrying his corns, hay, &c. to market, while at the same time a farmer in the muir-lands and sheep-pastures, who pays double or triple the other's rent, keeps perhaps only three or four horses, and indeed has no use for more; and consequently has very little use of, and makes very little repair upon the highways, having little or nothing either to carry to or fetch from market. But, on the other hand, it would be as unreasonable they should be exempted altogether; because, as often happens in very large farms, the tenant lives at a distance, and keeps only a herd or two, but no horses or working-cattle, upon them: the preceding clause is therefore intended to bring that matter as near to an equality as possible in their present state; and if in process of time these muir-lands should come to be better cultivated, and more tillage introduced, they would then be liable to be rated accordingly.

The number of sixty acres, allowed for the smallest ploughgate, may be thought too much: and, no doubt, in some of the most fertile parts, it is so; but yet in a matter of this nature things ought not to be

be strained, and better make them easy than too burdensome. That same number in other parts of the country may be thought much too small, as no doubt it is; but as it is left to the heritors themselves to allow as much more as they think proper, no inconvenience can arise from that.

**Head 13.**  
Lists to be  
transmitted

That copies of these lists shall be transmitted to the clerk of the peace, and entered in his books, and likewise copies of all the subsequent alterations the heritors may find it necessary to make upon them.

**Head 14.**  
Heritors  
neglecting,  
justices may  
make up  
lists.

That in case the heritors, &c, shall neglect to make up and transmit their lists, as herein directed, on or before the third Tuesday of May 177 , the justices shall have power to make up the same, in the same way as the heritors, &c. are hereby directed to do.

**Head 15.**  
May exa-  
mine and  
correct.

That the justices in their quarter-sessions shall have likewise power to examine into the lists made up by the heritors, and to correct any errors therein.

**Head 16.**  
Appeal.

That persons who think themselves aggrieved by any of the foreaid lists, may appeal to any quarter-sessions, or adjournment thereof; whose sentence shall be final.

That

That the heritors, &c. in their respective parishes shall have power to demand a conversion in money for one half, or any lesser part of the statute-work, not exceeding the ordinary rate of labour in that part of the country for carts and horses, &c.; and not exceeding sixpence per day for each householder.

Head 17.  
Power to  
convert the  
statute-  
work.

One of the principal causes of the statute-work having been hitherto so much neglected has been, that there was no fund for buying necessary tools, and for employing proper labourers for working quarries, digging gravel, making conduits and drains, forming the roads properly, and many other parts of the work, of which the country-people are absolutely ignorant and incapable, and for which purposes the ten shillings per hundred-pound valuation, allowed by law to be laid upon the counties for highways, bridges, &c. was found quite inadequate; so that in many instances it has happened, that after the inhabitants of the country have come to the appointed place from a considerable distance, with their carts, horses, servants, &c. they have been obliged to return home again without doing any work; or, if they did any, it was performed in such an improper manner, that the roads, in place of being mended and repaired thereby, were rendered worse, and more impassable than

*Note.*

C before.

before. To remedy this, it has been proposed to increase the highway-money to double or triple what the law at present allows ; and indeed, if no other method can be fallen upon, that is perhaps unavoidable. But if, by taking a part of the statute-work in money, according to circumstances, any new taxation can be avoided, it is much better : and the experience of East-Lothian, where that method has been followed, gives good ground to believe, that nothing farther will be necessary ; for it is most certain, that where proper workmen, undertakers, and carriages, can be got for hire, twenty shillings in money, properly applied, will go farther in making or repairing a road, than five or six times that sum in statute-work. And, where the tenants know the proper value of labour, and employ their horses and servants as they ought to do on their own farms, they are better pleased to pay a reasonable conversion, than to be called off their own work to the high-roads. But in other parts of the country, where these advantages are not to be found, and where labour is rated very low, from the ignorance and sloth of the inhabitants, and where, of course, money is very scarce, that method might prove very oppressive. And therefore it is absolutely necessary to leave it still in the power of the heritors themselves to regulate

regulate every thing according to particular circumstances, which vary so much that no general rule can be laid down that would answer every place.

The case is the same with respect to the conversions themselves. In East-Lothian forty pence per day for a cart with two horses and a servant, is thought a very easy composition; but in other parts of the country, it might be reckoned exorbitant; and therefore that must be left to the discretion of the heritors, who will still have it in their power to convert, or not, as they think proper, being only impowered, but not required, to convert.

Some have been of opinion, that the statute-work should be entirely abolished, as grievous, and a great waste of time; and that, in place thereof, a tax should be laid upon the land, at a certain sum per hundred-pound valuation. But besides what has been already observed with relation to that mode of taxation in general, it would in many cases prove quite ineffectual: for as the statute-work cannot be performed properly any where without the assistance of money, as little, in many places, would money alone answer the purpose; for where carriages, &c. cannot be got for hire, there is an absolute necessity for calling out the country-people to do the work themselves; and by

time and practice they will become more expert.

Besides, it has been computed by some, that the value of the whole statute-work over Scotland, if rigorously exacted, would amount to no less a sum than L. 50,000; and consequently would be heavier on the land than eight months cess. And it is more than probable, that were such a tax once established, it would become perpetual; and would not be remitted when the roads come not to require it, as the statute-work may easily be; nor is it possible to foresee to what other purposes it might be diverted, even by authority. And the experience of all past times evinces how difficult it is to reduce a tax once established; and that of all things money is most liable to embezzlement.

Head 18.  
Time of  
payment.

That on previous intimation, of at least fourteen days, from the reader's desk, the conversions shall be paid to the collector on or before the 15th day of February yearly, or such subsequent day as the heritors shall appoint, on the like intimation, for the current year; and that, where persons shall be deficient in paying the conversions, or performing their services, when required, it shall be lawful for two or more justices, on an application by the collector, and attestation of the deficiency by him or the overfeer, to grant summa-

ry

ry warrants for poinding, to the extent of the conversion, and a third part more. But that the justices, or any two of them, may award double damages to persons aggrieved by such warrants, against the collector or overseers making a false or improper accusation.

That where the roads in a parish can be kept in sufficient repair, with less than the whole statute-work, or conversions, exigible by this act, it shall be lawful for the heritors, &c. to allow a proportional abatement of the work, and conversions, from the persons liable as above.

Head 19.  
Abatement  
of the sta-  
tute-work.

That all the acts, orders, and resolutions, of the heritors, &c. and of their committees and overseers, respecting the application of the statute-work, or money arising from conversions, or respecting any of the authorities or powers committed to them by this act, shall, on complaint of any heritor, or person having interest, be liable to be reversed, altered, or confirmed, by the justices in their quarter-sessions; and that notice shall be given to the clerk of the heritors at least fourteen days before such complaint shall be cognosced.

Head 20.  
Acts, or-  
ders, &c.  
of the heri-  
tors, may  
be reversed  
or altered  
by the ju-  
stices, on  
complaint  
of any he-  
ritor.

That, for executing the duties and powers committed to the heritors, &c. by this

Head 21.  
Annual  
meetings.

this act, they shall hold stated meetings in the parish-church, at eleven o'clock forenoon, twice every year, viz. on the first Tuesday, which failing, on the second Tuesday, of April, and on the second Tuesday, which failing, on the third Tuesday, of October, with power of adjournment to such times and places within the parish, as they shall from time to time appoint; and failing of all these meetings, upon any other day, previous intimation, by order of any one heritor, being made by the reader from his desk, on a Sunday at least ten days before the meeting.

**Head 22.  
Clerks and  
collectors.**

That the heritors, &c. shall appoint a clerk, who shall enter all their proceedings in a book; and also shall chuse a collector for receiving the money arising from conversions, or otherwise; to whom they may allow reasonable salaries.

**Head 23.  
Commit-  
tees.**

That they may appoint committees of their own number, or others residing within the parish, to direct the application of the work and money allocated for the particular roads.

**Head 24.  
Overseers.**

That the heritors or committees may appoint overseers under them, with a suitable gratification for their trouble.

That

That the collector shall be obliged annually to make up an exact account of the money received by conversions, or otherwise; and the committees or overseers shall, in like manner, make up an account of the whole money expended, and statute-work performed; which, with the vouchers, shall be annually laid before the justices at their quarter-sessions, to be examined by them, or such of their number as they shall appoint: — That abstracts of these accounts be recorded in the books kept by the clerk of the peace; for which he shall be allowed a gratification from each parish, as the justices shall determine, not exceeding 5 s. Sterling: — And that collectors, and committees, or overseers, neglecting to give in their accounts, may be fined by the justices in a sum not exceeding L. 5 Sterling, to be applied to the roads at the direction of the justices.

That in case the heritors, &c. of any parish, shall neglect to execute the powers committed to them by this act, and shall not have applied at least one half of their statute-work, in money or labour, it shall be lawful for the justices, at their quarter-sessions, (on the application of any one heritor in the county), to apply the statute-work of such defaulting parish to that or any adjoining parish; but that where

Head 25.  
Accounts to  
be made up

Head 26.  
Penalty on  
any parish  
not making  
the services  
effectual.

where only a part of a parish has been deficient, the money levied from such deficients shall be applied in that part of the parish where the heritors have done their duty, or where these heritors shall desire.

*Note.*

In East-Lothian the statute-labour is reduced to three days work; and it has always been thought grievous to exact the whole six days; and therefore it would not be right to lay the heritors under the necessity of executing the law to the rigour; but still it is left in their power, if they find it necessary.

Head 27.  
Overfeer  
may take  
materials.

That it shall be lawful for the overseers, or any employed by them, to dig, gather, and take away, all kind of materials for repairing the roads in or from any common or waste grounds, without making any satisfaction, and from several grounds, (not being a garden, orchard, yard, planted walk or avenue to a house, or any piece of inclosed ground planted, set apart and used for a plantation, or nursery for trees, or pleasure-ground), and to open convenient accesses for carrying off the said materials, on making such satisfaction for the damage done as the heritors, &c. shall judge reasonable.

That

That it shall be lawful to the overseers to make causeys and bridges on the roads, and to make necessary ditches or drains through the adjacent grounds.

Head 28.  
Power to  
make cau-  
seys, brid-  
ges, &c.

That roads commonly called *King's highways* shall hereafter be thirty feet wide, clear of dike, ditch, or hedge, where not already inclosed in terms of the former statute; and that church and market roads, and all other roads, be at least twenty-two feet wide, clear of dike, ditch, or hedge.

Head 29.  
Breadth of  
roads.

That it shall be lawful to the heritors in each parish to alter the course of the said roads, on making such previous satisfaction to the owners or occupiers of the ground as any two or more justices shall judge reasonable. Provided such alteration shall not lengthen the road above 200 yards. Provided also, that in altering the said roads no damage shall be done to any house or building, or any garden, orchard, yard, inclosed or planted walk or avenue to any house, or piece of inclosed ground set apart or used as a plantation or nursery for trees or pleasure-ground, or to any growing timber that affords shelter or beauty to any of the premisses. And farther, that no old road shall in any case be stopped, till the new one is made sufficient, and declared such

Head 30.  
Power to  
alter roads.

D

by

by a quarter-session, or a committee to be appointed by them for that purpose.

Head 31.  
Headrigs.

That where roads run through uninclosed grounds, head-rigs shall be made on each side, at least twenty feet broad.

Head 32.  
Ditches to  
be scoured,  
&c.

That where there are ditches on the sides of the roads, the occupiers shall keep them scoured and clear; and where branches of trees or hedges hang over the road, so as to annoy or interrupt the free passage of the same, the owners shall cut or prune them; and on their failing to do so when required, any two or more justices may appoint persons to scour such ditches, and cut or prune such branches or hedges, at the owners expence, to be levied as directed for levying the conversions of the statute-work; provided the same be done betwixt the 1st day of October and the 1st day of Februay.

Head 33.  
Where one  
side of a  
road has  
been inclo-  
sed, &c.

That where one side of a road has been inclosed before passing this act, no inclosure shall be made on the other side without leaving the full standard breadth between the fences; and where the old inclosures have been made within less than the half of the standard breadth of the middle of the road, and the ground on the opposite side belongs to a different person,

person, the owner of the fide formerly inclosed shall be obliged, at the sight of two or more justices, to pay to the owner of the uninclosed fide the value of the ground which the latter is obliged to leave out for the road more than what otherwise would have fallen upon him.

That no person shall lay down any manure for land, stones, timber, or any nuisance or hinderance, within five yards of the side of the roads, except within a sufficient fence between it and the road; or leave carts or carriages on such road; or haul or draw any tree or piece of timber, or other matter whatever, on the said roads, otherwise than upon a wheel-carriage; or do any thing whatever whereby the said roads shall be unnecessarily spoiled or damaged, under the penalty of 10 s. Sterling for each such offence.

That where two or more high-roads meet, the heritors, &c. shall cause direction-posts to be set up, pointing out the next market-town, or other considerable place, to which each of the said roads leads. — And where any parts of the roads are subject to deep or dangerous floods, graduated posts shall be set up at the entrances, denoting the depth of the water at the deepest parts; as also direction-posts on the sides of such parts as are

subject to be overflowed.—The expences of such posts to be paid out of the money levied by the collectors in virtue of this act.

Head 36.

Not to pro-  
secute after  
one year.

That no person shall be prosecuted or punished for any offence against this act after the elapse of one year after the offence.

Conclusion.

It will easily be observed, that in framing this plan, how defective soever it may be in other respects, every alteration of, or deviation from, the spirit of our present law, has been studiously avoided, except where the defects and inconveniences of it have by experience been found absolutely to require some alteration. The general prejudice in mankind against innovations made this caution necessary; and it is not less so on account of the impossibility of foreseeing all the effects and consequences of new laws, which are often found to be out of the reach of the most consummate human foresight and experience.

As in most cases, and in none more than the present, a multiplicity of laws on the same subject renders the execution of them intricate and difficult, and often disappoints the very intention of the whole, it were much to be wished, that some learned and able gentleman of the law,

law, for the good of his country, would take the trouble of reducing the whole laws relating to highways, ferries, bridges, &c. into one statute, that might be intelligible to the meanest capacity, which would most effectually contribute to the execution of it, not only by adding new vigour to the present spirit of the gentlemen in this part of the kingdom for repairing and making good roads, but would bring the lower classes to co-operate on their part with much greater chearfulness than can ever be expected, while they continually hear of difficulties and doubts concerning the interpretation of our present laws. And if the foregoing hints should prove of any use in such a public-spirited attempt, the author of them will think himself sufficiently rewarded for the trouble he has taken, having nothing in view but the public good.

F I N I S.

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C I N I T

